

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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WILLIAM BROWN,

Petitioner-Appellant,

v

CITY OF ADRIAN,

Respondent-Appellee.

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UNPUBLISHED

April 10, 2014

No. 314213

Tax Tribunal

LC No. 00-434596

Before: WILDER, P.J., and FITZGERALD and MARKEY, JJ.

PER CURIAM.

Petitioner appeals by right the order of the Michigan Tax Tribunal (MTT) concluding that the subject property had a true cash value (TCV) of \$152,800, a state equalized value of \$76,400, and a taxable value of \$76,400 for the 2012 tax year. Petitioner contends that the TCV for the property should be \$55,000. We affirm.

The basic facts are undisputed. In February of 2012, petitioner protested the local board of review's determination that the taxable value of the subject property was \$76,400. Following the board's decision, petitioner filed an appeal with the MTT. Petitioner submitted a November 2011 appraisal indicating that the property's TCV was \$55,000. The appraisal utilized both a comparative-sales approach and an income-based approach to assess value. Respondent submitted evidence of value using a comparative-sales approach and an income-based approach.

The hearing referee issued a proposed opinion and judgment determining that the TCV of the property was \$101,976 for the 2012 tax year. The referee rejected both of petitioner's valuation approaches, as well as respondent's income-based approach. However, the referee found that respondent's comparative-sales approach was the best evidence of value for the 2012 tax year. Petitioner filed exceptions. The MTT issued a final opinion and judgment, concluding that the TCV for the property in 2012 tax year was \$152,800.

On appeal, petitioner first claims that the TCV of the property should only be \$48,000 because he purchased the property for that amount in an arms-length transaction. But petitioner did not even raise this argument before the MTT and we decline to address it further.

Next, petitioner asserts that the MTT erred by not adopting the \$55,000 value from his appraisal. We disagree. In the absence of fraud, our review of a tax tribunal's decision is limited to determining whether the tribunal made an error of law or adopted a wrong legal principle.

Const 1963, art 6, § 28; *President Inn Props, LLC v City of Grand Rapids*, 291 Mich App 625, 630-631; 806 NW2d 342 (2011). The MTT's factual findings will not be disturbed provided they are supported by competent, material, and substantial evidence on the whole record. *Id.* at 631. Substantial evidence must be more than a scintilla of evidence but may be less than a preponderance of the evidence; it is what a reasonable mind would determine is sufficient to support a conclusion. *Great Lakes Div of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 388-389; 576 NW2d 667 (1998).

The Michigan Constitution provides for the taxation of property at not more than 50 percent of the property's TCv. Const 1963, art 9, § 3. "[T]rue cash value' means the usual selling price at the place where the property to which the term is applied at the time of assessment, being the price that could be obtained for the property at private sale. . . ." MCL 211.27(1). TCv is considered synonymous with fair market value. *President Inn Props*, 291 Mich App at 637. Although the petitioner bears the burden of establishing the TCv of the property, the MTT "has a duty to make an independent determination of true cash value." *Id.* at 631. Moreover, the MTT is not required to accept the parties' theories of valuation but "may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination of true cash value." *Great Lakes*, 227 Mich App at 389-390. Regardless of the method employed, the MTT has "the overall duty to determine the most accurate valuation under the individual circumstances of the case." *President Inn Props*, 291 Mich App at 631.

There are three generally recognized common approaches to valuation: the capitalization-of-income approach, the sales-comparison or market approach, and the cost-less-depreciation approach. *Id.* at 639. But whatever valuation approach the MTT employs, the final valuation must represent the usual price for which the subject property would sell. "In other words, a valuation method is wrong only if it does not lead to the most accurate determination of the taxable property's true cash value or fair market value." *Id.* Furthermore, "while "all relevant circumstances that tend to affect property value should be considered in the valuation process, there is no rule of law that requires the Tax Tribunal to quantify every possible factor affecting value." *Great Lakes Div of Nat'l Steel Corp*, 227 Mich App at 398-399.

Here, the MTT determined that respondent's sales-comparison approach supported the current and assessed taxable values for the 2012 tax year. Specifically, the MTT concluded as follows:

[T]he Hearing Referee erred in concluding that only Respondent's Comparable #4 . . . provides the best indication of value for the 2012 tax year. In that regard, although Respondent's Comparable Nos. 1, 2, and 3 are located in a different city . . ., Respondent testified that it needed to venture outside of the City of Adrian to find comparable properties. That being said, the Tribunal gives less weight to Respondent's Comparable #1 since it provided for high gross adjustments (69.3%) and Respondent's Comparable #4 since, according to Petitioner's appraisal which also utilized the same comparable, it was a land contract sale. Due to the nature of land contract sales, the negotiations of which generally focus on the monthly payments and security required rather than the ultimate sale price, land contract sales are *generally* not considered to accurately reflect a property

true cash or fair market value. Respondent's Comparables Nos. 2 and 3, however, provided for relatively low gross adjustments (22% and 8.4%, respectively) and as such, are given more weight. As a result, the Tribunal finds that Respondent's sales comparison approach supports the current and assessed taxable values for the 2012 tax year.

Although Petitioner contends that his appraisal supports his contentions of value, the Tribunal does not agree that his sales comparison and income approaches are the most reliable indicators of value. In that regard, Petitioner's sales comparison approach utilized five comparables. . . . [H]owever, Petitioner's appraisal failed to make adjustments to its comparables. Furthermore, four of Petitioner's comparables were bank/foreclosure sales and Petitioner failed to provide sufficient evidence to prove that the market where the subject property is located, is comprised of distressed sales in order for the Tribunal to conclude that those four distressed comparables are reliable indicators of value.

The tribunal was free to accept respondent's valuation approach and reject petitioners. *Great Lakes Div of Nat'l Steel Corp*, 227 Mich App at 404-406. The MTT clearly explained its rationale for rejecting petitioner's approach to valuation and adopting respondent's. Based on our review of the record, we conclude that the MTT's determination was supported by competent, material, and substantial evidence on the whole record. Accordingly, we conclude that the MTT did not err in its determination of the property's TCV.

We affirm.

/s/ Kurtis T. Wilder  
/s/ E. Thomas Fitzgerald  
/s/ Jane E. Markey